

HB5057



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5057

Introduced 1/27/2022, by Rep. Michael Halpin

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1035.1

from Ch. 34, par. 5-1035.1

Amends the County Motor Fuel Tax Law in the Counties Code. Defines "sold at retail within the county" and "retailers within the county". Effective January 1, 2023.

LRB102 23520 AWJ 32702 b

A BILL FOR

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Counties Code is amended by changing
5 Section 5-1035.1 as follows:

6 (55 ILCS 5/5-1035.1) (from Ch. 34, par. 5-1035.1)

7 Sec. 5-1035.1. County Motor Fuel Tax Law.

8 (a) The county board of the counties of DuPage, Kane,
9 Lake, Will, and McHenry may, by an ordinance or resolution
10 adopted by an affirmative vote of a majority of the members
11 elected or appointed to the county board, impose a tax upon all
12 persons engaged in the county in the business of selling motor
13 fuel, as now or hereafter defined in the Motor Fuel Tax Law, at
14 retail for the operation of motor vehicles upon public
15 highways or for the operation of recreational watercraft upon
16 waterways. The collection of a tax under this Section based on
17 gallonage of gasoline used for the propulsion of any aircraft
18 is prohibited, and the collection of a tax based on gallonage
19 of special fuel used for the propulsion of any aircraft is
20 prohibited on and after December 1, 2019. Kane County may
21 exempt diesel fuel from the tax imposed pursuant to this
22 Section. The initial tax rate may not be less than 4 cents per
23 gallon of motor fuel sold at retail within the county for the

1 purpose of use or consumption and not for the purpose of resale
2 and may not exceed 8 cents per gallon of motor fuel sold at
3 retail within the county for the purpose of use or consumption
4 and not for the purpose of resale. The proceeds from the tax
5 shall be used by the county solely for the purposes of
6 operating, constructing, and improving public highways,
7 waterways, shared-use paths for nonvehicular public travel,
8 sidewalks, and bike paths and acquiring real property and
9 rights-of-way for public highways, waterways, shared-use paths
10 for nonvehicular public travel, sidewalks, and bike paths
11 within the county imposing the tax.

12 As used in this subsection, "sold at retail within the
13 county" means the county where possession of the motor fuel is
14 taken by the purchaser.

15 (a-5) By June 1, 2020, and by June 1 of each year
16 thereafter, the Department of Revenue shall determine an
17 annual rate increase to take effect on July 1 of that calendar
18 year and continue through June 30 of the next calendar year.
19 Not later than June 1 of each year, the Department of Revenue
20 shall publish on its website the rate that will take effect on
21 July 1 of that calendar year. The rate shall be equal to the
22 rate in effect increased by an amount equal to the percentage
23 increase, if any, in the Consumer Price Index for All Urban
24 Consumers for all items, published by the United States
25 Department of Labor for the 12 months ending in March of each
26 year. The rate shall be rounded to the nearest one-tenth of one

1 cent. Each new rate may not exceed the rate in effect on June
2 30 of the previous year plus one cent.

3 (b) A tax imposed pursuant to this Section, and all civil
4 penalties that may be assessed as an incident thereof, shall
5 be administered, collected, and enforced by the Illinois
6 Department of Revenue in the same manner as the tax imposed
7 under the Retailers' Occupation Tax Act, as now or hereafter
8 amended, insofar as may be practicable; except that in the
9 event of a conflict with the provisions of this Section, this
10 Section shall control. The Department of Revenue shall have
11 full power: to administer and enforce this Section; to collect
12 all taxes and penalties due hereunder; to dispose of taxes and
13 penalties so collected in the manner hereinafter provided; and
14 to determine all rights to credit memoranda arising on account
15 of the erroneous payment of tax or penalty hereunder.

16 (b-5) Persons subject to any tax imposed under the
17 authority granted in this Section may reimburse themselves for
18 their seller's tax liability hereunder by separately stating
19 that tax as an additional charge, which charge may be stated in
20 combination, in a single amount, with State tax which sellers
21 are required to collect under the Use Tax Act, pursuant to such
22 bracket schedules as the Department may prescribe.

23 (c) Whenever the Department determines that a refund shall
24 be made under this Section to a claimant instead of issuing a
25 credit memorandum, the Department shall notify the State
26 Comptroller, who shall cause the order to be drawn for the

1 amount specified, and to the person named, in the notification
2 from the Department. The refund shall be paid by the State
3 Treasurer out of the County Option Motor Fuel Tax Fund.

4 (d) The Department shall forthwith pay over to the State
5 Treasurer, ex officio, as trustee, all taxes and penalties
6 collected hereunder, which shall be deposited into the County
7 Option Motor Fuel Tax Fund, a special fund in the State
8 Treasury which is hereby created. On or before the 25th day of
9 each calendar month, the Department shall prepare and certify
10 to the State Comptroller the disbursement of stated sums of
11 money to named counties for which taxpayers have paid taxes or
12 penalties hereunder to the Department during the second
13 preceding calendar month. The amount to be paid to each county
14 shall be the amount (not including credit memoranda) collected
15 hereunder from retailers within the county during the second
16 preceding calendar month by the Department, but not including
17 an amount equal to the amount of refunds made during the second
18 preceding calendar month by the Department on behalf of the
19 county; less 2% of the balance, which sum shall be retained by
20 the State Treasurer to cover the costs incurred by the
21 Department in administering and enforcing the provisions of
22 this Section. The Department, at the time of each monthly
23 disbursement to the counties, shall prepare and certify to the
24 Comptroller the amount so retained by the State Treasurer,
25 which shall be transferred into the Tax Compliance and
26 Administration Fund.

1 As used in this subsection, "retailers within the county"
2 include anyone subject to tax under this Section in that
3 county.

4 (e) Nothing in this Section shall be construed to
5 authorize a county to impose a tax upon the privilege of
6 engaging in any business which under the Constitution of the
7 United States may not be made the subject of taxation by this
8 State.

9 (f) Until January 1, 2020, an ordinance or resolution
10 imposing a tax hereunder or effecting a change in the rate
11 thereof shall be effective on the first day of the second
12 calendar month next following the month in which the ordinance
13 or resolution is adopted and a certified copy thereof is filed
14 with the Department of Revenue, whereupon the Department of
15 Revenue shall proceed to administer and enforce this Section
16 on behalf of the county as of the effective date of the
17 ordinance or resolution.

18 On and after January 1, 2020, an ordinance or resolution
19 imposing or discontinuing the tax hereunder or effecting a
20 change in the rate thereof shall either: (i) be adopted and a
21 certified copy thereof filed with the Department on or before
22 the first day of April, whereupon the Department shall proceed
23 to administer and enforce this Section as of the first day of
24 July next following the adoption and filing; or (ii) be
25 adopted and a certified copy thereof filed with the Department
26 on or before the first day of October, whereupon the

1 Department shall proceed to administer and enforce this
2 Section as of the first day of January next following the
3 adoption and filing.

4 (g) This Section shall be known and may be cited as the
5 County Motor Fuel Tax Law.

6 (Source: P.A. 101-10, eff. 6-5-19; 101-32, eff. 6-28-19;
7 101-275, eff. 8-9-19; 101-604, eff. 12-13-19; 102-452, eff.
8 8-20-21.)

9 Section 99. Effective date. This Act takes effect January
10 1, 2023.